

1 BILL LOCKYER, Attorney General  
of the State of California  
2 LORRIE M. YOST, State Bar No. 119088  
Deputy Attorney General  
3 California Department of Justice  
1300 I Street, Suite 125  
4 P.O. Box 944255  
Sacramento, CA 94244-2550  
5 Telephone: (916) 445-2271  
Facsimile: (916) 327-8645  
6  
7 Attorneys for Complainant

8 **BEFORE THE**  
**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. OT 2003-110

12 KELORIE ANN WESTLUND  
6436 Bremen Drive, #3  
13 Citrus Heights, CA 95621  
Occupational Therapist Certificate No. OT 3827

**A C C U S A T I O N**

14 Respondent.  
15

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Gladys Mitchell (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the California Board of Occupational Therapy, Department  
21 of Consumer Affairs.

22 2. On or about November 29, 2002, the California Board of Occupational  
23 Therapy issued Occupational Therapist Certificate Number OT 3827 to Kelorie Ann Westlund  
24 (Respondent). The Occupational Therapist certificate was in effect at all times relevant to the  
25 charges brought herein and will expire on May 31, 2005, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the California Board of Occupational Therapy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2570.28 states in pertinent part:

"The board may deny or discipline a licensee for any of the following:

"(a) Unprofessional conduct, including, but not limited to, the following:

"(1) Incompetence or gross negligence in carrying out usual occupational therapy functions.

"(2) Repeated similar negligent acts in carrying out usual occupational therapy functions.

"(3) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

"(4) The use of advertising relating to occupational therapy which violates Section 17500.

"(5) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.

"(e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.

"(h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.

1           5.       Section 490 of the Code provides, in pertinent part, that a board may  
2 suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the  
3 crime is substantially related to the qualifications, functions, or duties of the business or  
4 profession for which the license was issued .

5           6.       Section 118 of the Code provides, in pertinent part, that the suspension,  
6 expiration, or forfeiture by operation of law of a license issued by a board in the department, or  
7 its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its  
8 surrender without the written consent of the board, shall not, during any period in which it may  
9 be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or  
10 continue a disciplinary proceeding against the licensee upon any ground provided by law or to  
11 enter an order suspending or revoking the license or otherwise taking disciplinary action against  
12 the licensee on any such ground.

13           7.       Section 125.3 of the Code provides, in pertinent part, that the Board may  
14 request the administrative law judge to direct a licensee found to have committed a violation or  
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
16 and enforcement of the case.

17                               CAUSE FOR DISCIPLINE

18                               (Conviction of a Crime Substantially Related)

19           8.       Respondent is subject to disciplinary action under section 2570.28(e) in  
20 that she was convicted on October 11, 2004 of three counts of violating Section 946.32(1)(A),  
21 Wisconsin Statutes (knowingly making a false statement under oath), a felony, in the case known  
22 as State of Wisconsin v. Kelorie A. Westlund, Case No. 2004CF000564. The facts and  
23 circumstances are as follows:

24           a.       On or about April 16, 2001, respondent, in her capacity as guardian of  
25 property held on behalf of her son Michael Westlund, submitted to Waukesha County Circuit  
26 Court an annual trust report made by her under oath describing receipts and expenditures for the  
27 year of 2000 for a trust fund bank account in her son's name at M & I Bank. The Annual  
28 Account described the account as containing \$95,585.28 at the end of 2000, as having earned

1 \$2,031.79 in interest, and as having had no disbursements or losses. A letter accompanying the  
2 report describing the account and purporting to be from Colleen Sitter, personal banker at M & I  
3 Bank, was in fact a forgery.

4 b.. On or about April 15, 2002, respondent, in her capacity as guardian of  
5 property held on behalf of her son Michael Westlund, submitted to Waukesha County Circuit  
6 Court an annual trust report made by her under oath describing receipts and expenditures for the  
7 year of 2001 for a trust fund bank account in her son's name at M & I Bank. The Annual  
8 Account described the account as containing \$98,651.81 at the end of 2002, as having earned  
9 \$1,034.74 in interest, and as having had no disbursements or losses. In fact, the trust fund  
10 account had a balance of \$2,155.18 as of December 31, 2001. A letter accompanying the report  
11 describing the account and purporting to be from Colleen Sitter, personal banker at M & I Bank,  
12 was in fact a forgery.

13 c. On or about December 8, 2003 respondent, in her capacity as guardian of  
14 property held on behalf of her son Michael Westlund, submitted to Waukesha County Circuit  
15 Court an annual trust report made by her under oath describing receipts and expenditures for the  
16 year of 2002 for a trust fund bank account in her son's name at M & I Bank. The Annual  
17 Account described the account as containing \$99,386.73 at the end of 2002, as having earned  
18 \$734.92 in interest, and as having had no disbursements or losses. In fact, the trust fund account  
19 had been closed on August 30, 2002 with a balance of zero. A letter accompanying the report  
20 describing the account and purporting to be from Colleen Sitter, personal banker at M & I Bank,  
21 was in fact a forgery.

22 CAUSE FOR DISCIPLINE

23 (Fraudulent, Dishonest, Corrupt Act)

24 9. Respondent is subject to disciplinary action under section 2570.28(h) in  
25 that she committed fraudulent, dishonest, or corrupt acts substantially related to the  
26 qualifications, functions, or duties of a licensee by submitting false reports under oath as  
27 described in paragraph 8, above.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the California Board of Occupational Therapy issue a  
4 decision:

5 1. Revoking or suspending Occupational Therapist Certificate Number OT  
6 3827, issued to Kelorie Ann Westlund.

7 2. Ordering Kelorie Ann Westlund to pay the California Board of  
8 Occupational Therapy the reasonable costs of the investigation and enforcement of this case,  
9 pursuant to Business and Professions Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 5/31/05

12  
13   
14 GLADYS MITCHELL  
15 Executive Officer  
16 California Board of Occupational Therapy  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
20

21 SA2005102286

22 10170368.wpd  
23  
24  
25  
26  
27  
28